

Message Text

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ACTION PM-04

INFO OCT-01 EA-07 ISO-00 CAB-02 CIAE-00 COME-00 DOTE-00

EB-07 INR-07 NSAE-00 FAA-00 H-02 L-03 NSC-05 PA-01

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INFO DOD

CSAF (JACI)

SECAF

NAVY JAG

CINCPAC

CINCPACAF

CINCPACREPPHIL

13 AF

3 CSG

374 TAW/CC, CLARK AB

MAC (DO/LGPA) SCOTT AFB, ILL

22 AF (DO/LGPA) TRAVIS AFB CALIF

C O N F I D E N T I A L MANILA 13537

E.O. 11652: GDS

TAGS: EAIR, MILI, RP

SUBJECT: MAC CHARTER AIRCRAFT - GOP REQUEST FOR DIPLOMATIC
CLEARANCE

SUMMARY BY DIPLOMATIC NOTE GOP NOTIFIED EMB THAT DIPLO-
MATIC FLIGHT CLEARANCE IS REQUIRED FOR ALL MAC CHARTER
AIRCRAFT OPERATED BY CIVILIAN CREWS. EMB REPLIED REQUESTING
CONSULTATION AND REFERRING MATTER TO MUTUAL DEFENSE BOARD
AND REQUESTING IMPLEMENTATION BE HELD IN ABEYANCE UNTIL
MATTER RESOLVED BY MUTUAL DEFENSE BOARD. COMMENTS
REQUESTED. END SUMMARY

1. EMB RECEIVED FOLLOWING DIPLOMATIC NOTE FROM DFA:

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QUOTE THE DEPARTMENT OF FOREIGN AFFAIRS PRESENTS ITS

COMPLIMENTS TO THE EMBASSY OF THE UNITED STATES OF AMERICA AND, WITH REFERENCE TO THE EMBASSY'S NOTE NO. 635 DATED 19 AUGUST 1975 REGARDING THE SCOPE OF THE APPLICABILITY OF QUOTE ATTACHMENT F UNQUOTE ISSUED BY THE FIRST AIR DIVISION OF THE PHILIPPINE AIR FORCE, HAS THE HONOR TO ENCLOSE A COPY EACH OF THE FOLLOWING DOCUMENTS FOR THE EMBASSY'S GUIDANCE: PARA 1. HEAD-QUARTERS PHILIPPINE AIR FORCE SOP #10 DATED 6 FEBRUARY 1974, AS AMENDED BY HPAF SOP #4 DATED 1 SEPTEMBER 1975; AND PARA 2. HEADQUARTERS PHILIPPINE AIR FORCE SOP #19 DATED 27 MAY 1974N AS AMENDED BY HPAF SOP #3 DATED 20 AUGUST 1975. PARA PARTICULAR ATTENTION IS INVITED TO PARA. 6.F.1 OF HPAF SOP #4 DATED 1 SEPTEMBER 1975 WHICH IN ESSENCE PROVIDES THAT, HENCEFORTH, COMMERCIAL AIRLINERS CHARTERED IN THE SERVICE OF THE ARMED FORCES OF THE UNITED STATES FLOWN AND OPERATED BY CIVILIAN AIRCREWS (WET CHARTER) ARE REQUIRED TO SECURE DIPLOMATIC FLIGHT CLEARANCE BEFORE LANDING/OVERFLYING THE REPOUBLIC OF THE PHILIPPINES TERRITORY. PARA THE DEPARTMENT AVAILS ITSELF OF THIS OPPORTUNITY TO RENEW TO THE EMBASSY THE ASSURANCES OF ITS HIGHEST CONSIDERATION. MANILA, 16 SEPTEMBER 1975 END QUOTE

2. EMB HAS REPLIED TO ABOVE NOTE AS FOLLOWS: QUOTE THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS ITS COMPLIMENTS TO THE DEPARTMENT OF FOREIGN AFFAIRS OF THE REPUBLIC OF THE PHILIPPINES AND HAS THE HONOR TO REFER TO THE DEPARTMENT'S NOTE NO. 75-2434, DATED SEPTEMBER 16, 1975, BUT NOT RECEIVED AT THE EMBASSY UNTIL SEPTEMBER 24, 1975, TRANSMITTING CERTAIN STANDARD OPERATING PROCEDURES PROMULGATED BY HEADQUARTERS PHILIPPINE AIR FORCE AND SPECIFICALLY NOTIFYING THE EMBASSY THAT AIR-CRAFT UNDER CHARTER BY THE UNITED STATES ARMED FORCES AND OPERATED BY CIVILIAN CREWS WOULD BE REQUIRED TO SECURE DIPLOMATIC FLIGHT CLEARANCE BEFORE LANDING/OVERFLYING THE REPUBLIC OF THE PHILIPPINES TERRITORY. PARA THE EMBASSY WISHES TO CALL TO THE DEPARTMENT'S ATTENTION THAT THE ABOVE TYPE OF AIRCRAFT IS UNDER THE FULL OPERATIONAL CONTROL OF THE UNITED STATES ARMED FORCES AND HAS IN PRACTICE BEEN CONSIDERED BY BOTH OF CONFIDENTIAL

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OUR GOVERNMENTS AS FALLING WITHIN THE PROVISIONS OF THE UNITED STATES/REPUBLIC OF THE PHILIPPINES MILITARY BASES AGREEMENT OF 1947, AS AMENDED. THIS UNDERSTANDING HAS BEEN FOLLOWED BY BOTH OF OUR GOVERNMENTS SINCE THE VERY INCEPTION OF CHARTERING AIRCRAFT FOR THE SOLE AND EXCLUSIVE USE OF THE UNITED STATES ARMED FORCES, AND IT WOULD APPEAR THAT UNDER RECOGNIZED INTERNATIONAL PRACTICES ANY UNILATERAL CHANGE TO A LONG-STANDING

MUTUAL INTERPRETATION BETWEEN OUR TWO GOVERNMENTS WOULD REQUIRE CONSULTATION. PARA IN THIS CONNECTION, THE EMBASSY WISHES TO REFER TO THE EXCHANGE OF NOTES BETWEEN OUR GOVERNMENTS IN 1958 WHICH ESTABLISHED THE MUTUAL DEFENSE BOARD. IN ANNEX A, PARAGRAPH 4, TO THAT AGREEMENT IT WAS AGREED THAT THE BOARD WOULD HAVE JURISDICTION TO QUOTE ESTABLISH AGREED POLICIES AND PROCEDURES, OR WHEN NECESSARY, TO RECOMMEND TO THEIR RESPECTIVE GOVERNMENTS HOW BEST TO RESOLVE IN THE MUTUAL INTERESTS OF THE TWO SOVEREIGN COUNTRIES SUCH PROBLEMS AS MAY ARISE IN CONNECTION WITH: PARA A. WORKING RELATIONSHIP WITH REGARD TO SPECIFIC MATTERS ENUMERATED IN OR ARISING FROM THE MBA OF 1947...PARA C. THE CORRELATION, IN ACCORDANCE WITH EXISTING LAWS AND POLICIES OF THE RESPECTIVE GOVERNMENTS, OF MILITARY MATTERS OF MUTUAL CONCERN WHICH ARISE FROM THE PHILIPPINES-UNITED STATES...MILITARY BASES AGREEMENT...UNQUOTE PARA THE EMBASSY BELIEVES THAT THE ISSUE OF CLEARANCE FOR UNITED STATES MILITARY CHARTER AIRCRAFT IS DIRECTLY INVOLVED IN THE OPERATION OF THE MILITARY BASES AGREEMENT AND, THEREFORE, BELIEVES THAT THE PROPER FORUM TO DISCUSS ANY PROPOSAL TO CHANGE PREVIOUSLY ESTABLISHED AND MUTUALLY ACCEPTED PRACTICES WOULD BE THE MUTUAL DEFENSE BOARD. IN THIS CONNECTION, THE UNITED STATES EMBASSY HAS NOTIFIED THE UNITED STATES CO-CHAIRMAN OF THE MUTUAL DEFENSE BOARD TO MAKE THIS AN AGENDA ITEM FOR THE NEXT BOARD MEETING. PARA THEREFORE, THE EMBASSY REQUESTS THE DEPARTMENT TO NOTIFY THE APPROPRIATE PHILIPPINE AUTHORITIES THAT ANY ACTION RESPECTING THE PHILIPPINE GOVERNMENT PROPOSAL TO REQUIRE DIPLOMATIC FLIGHT CLEARANCE FOR UNITED STATES ARMED FORCES CHARTER AIRCRAFT SHALL BE HELD IN ABEYANCE UNTIL THE ISSUE CAN BE ADDRESSED AND RESOLVED BY THE MUTUAL DEFENSE BOARD. PARA THE EMBASSY AVAILS ITSELF OF CONFIDENTIAL

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THIS OPPORTUNITY TO RENEW TO THE DEPARTMENT OF FOREIGN AFFAIRS THE ASSURANCE OF ITS HIGHEST CONSIDERATION. MANILA, SEPTEMBER 25, 1975 UNQUOTE

3. COMMENT: EMB AWARE THAT PROVISIONS OF ARTICLE IV, MBA OF 1947, DOES NOT SPECIFICALLY COVER CHARTER AIRCRAFT BY UNITED STATES ARMED FORCES AND REALIZE THIS WAS ONE OF PROBLEM AREA IN 1971-72 MBA NEGOTIATIONS. HOWEVER, PRACTICE OVER THE YEARS HAS RECOGNIZED THE UNIQUE STATUS OF MAC CHARTER AIRCRAFT, AND THEY HAVE BEEN CONSISTENTLY TREATED AS HAVING THE SAME STATUS FOR CLEARANCE PURPOSES AS MILITARY AIRCRAFT. WILL ATTEMPT TO HAVE MUTUAL DEFENSE BOARD RATIFY THE CONTINUING CUSTOMARY PRACTICE THAT HAS EVOLVED IN PHILIPPINES ON THIS ISSUE. IF THIS APPROACH APPEARS NOT

FEASIBLE, WILL ATTEMPT TO HAVE PAST PRACTICE CONTINUE
WITH VIEW OF RESOLVING ISSUE IN FORTHCOMING MBA
NEGOTIATIONS.

4. REQUEST COMMENTS. SOP'S ATTACHED TO DFA NOTE
POUCHED.
SULLIVAN

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